

## Summary Dissolution

Summary Dissolution in California reduces divorce to its simplest procedure. No court appearances are necessary and fewer forms are required. While this approach can be easier, it cannot always be used. To qualify to use this process outlined in California's Family Code §§2400-2406, the following prerequisites must be met:

- No children exist as product of marriage, and wife cannot be pregnant.
- Marriage does not exceed five years at date of filing.
- Both parties have no interest in real property anywhere in world (except lease of residence for remaining term of less than one year).
- Debts by either or both parties (excluding automobile debts) do not exceed \$5000.
- Community property asset value (excluding automobiles, deferred compensation and retirement plan) is less than \$25,000. Neither party can have separate property net valued of more than \$25,000.
- Parties have signed an agreement how community assets and community liability will be divided. All documents to carry out agreement are completed (name removal on bank account, names removed from vehicle title).
- Parties waive rights to spousal support.
- One spouse has lived in California for six months or more and in the county in which party files for at least three months.
- Both spouses have read the Summary Dissolution Booklet available at the county clerk's office.

If these qualifications are met, parties may file a Joint Petition for Summary Dissolution. Both spouses sign this form under penalty of perjury. Parties attach to the Joint Petition three worksheet forms (found in court packet) for Preliminary Declaration of Disclosure: Value and Division of Community Property; Value of Separate Property; Community Obligations. Based upon these three forms, parties draw up a Property Settlement Agreement, containing terms of the division of property and obligations (debt) and a waiver of spousal support. Both parties must sign the Property Settlement and file this with the court. Additionally, a Preliminary Declaration of Disclosure must be served upon the other party. These disclosures do not get filed. Only a signed Declaration regarding the service of the Declaration of Disclosure gets filed. A Final Declaration of Disclosure will be served on the other party also, however there are exceptions and it is not absolutely required.

Six months after filing the joint petition, either party can file a single form containing a Request for Final Judgment of Dissolution of Marriage and a Notice of Entry of Judgment. Up until the point the Request for Final Judgment is filed, either party can revoke the joint petition and stop the Summary Dissolution proceeding by filing a Notice of Revocation of Petition for Summary Dissolution.

Summary Dissolution has both advantages and disadvantages over Regular Dissolution. One advantage is that Summary Dissolution is a simpler process that skips the service of summons and petition to the other spouse. It can be handled through the mail, keeping forms to a minimum and not requiring a court appearance. Consequently, Summary Dissolution does not allow parties the right to appeal because technically there is no trial or court hearing. In Regular Dissolution, since a court hearing or trial is held, parties can appeal the decision to a higher court. Only in cases of coercion or serious mistake will courts set aside the terms of Summary Dissolution. Parties must proceed carefully and not rush into Summary Dissolution because it is costly to correct mistakes made in this process. Another disadvantage of Summary Dissolution is that one partner can terminate the process at any time before the Request for Final Judgment is filed. This can halt the dissolution process if one party does not want to proceed. To begin the Regular Dissolution process another filing fee will be charged.

The county clerk's office often has Family Law Seminars where further questions can be asked. In Monterey, the office can be reached by dialing (831) 647-7730. The address is 1200 Aguajito, Monterey. Forms may be found on the Internet under <http://www.courtinfo.ca.gov/forms> under Summary Dissolution.

### Steps to Process a Summary Dissolution

1. Fill out Joint Petition for Summary Dissolution Form.
2. Make 3 copies.
3. Fill out 3 worksheets determining value of community and separate property and the division of the property.
4. Draft Property Agreement that divides property and debts and waives spousal support.
5. Attach worksheets and Property Agreement to Petition, pay filing fee (about \$190) and file with county clerk.
6. Each party serves the other a Preliminary Declaration of Disclosure (not filed with court).
7. Fill out Declaration of Service form verifying that disclosures were served upon spouse.
8. Wait 6 months.
9. Either spouse fills out Request for Judgment form and file this with county clerk.

Note: It is possible to transact Summary Dissolution through the mail. Call the clerk's office to verify the process. Usually, you need to enclose envelopes addressed and stamped for them to send copies of the forms to you and your spouse. Multiple copies of the forms are required when submitting them to the county clerk's office.

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